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PURA DOCKET ON UTILITY STORM RESPONSE

By: Kevin McCarthy, Principal Analyst
Lee Hansen, Legislative Analyst II

You asked for a summary of the Public Utilities Regulatory Authority's (PURA) docket 11-09-09, dealing with the utilities' response to the fall 2011 storms.

SUMMARY

By law, PURA is responsible for overseeing the provision of safe, adequate, and reliable service by Connecticut utility companies. In this docket, PURA examines a variety of concerns surrounding the companies' performance before, during, and after the fall 2011 storms including their:

1. storm preparedness, storm restoration activities, and mutual assistance;
2. communication and coordination among utility companies and with outside personnel and municipalities;
3. communication with customers;
4. utility infrastructure;
5. cable television, telecommunications, and cellular service outages; and

6. tree-trimming and other vegetation management.

While much of the docket addresses the actions of Connecticut Light & Power (CL&P), it also covers planning for and response to the storms by United Illuminating (UI) and the telecommunications, gas, and water utilities.

The docket begins with an introduction that describes how the proceeding was conducted, identifies who participated, and summarizes comments received at public hearings and from public officials. The docket next reviews three previous reports on the storms and the utilities, including one prepared by Liberty Consulting Group, which PURA had retained for the docket.

In light of these reports, the Attorney General and the Office of Consumer Counsel (OCC) argued that Connecticut Light and Power (CL&P) had been imprudent in how it prepared for and responded to the storms and that it should be penalized. CL&P disputed these allegations. It also argued that the notice for the docket did not contemplate the imposition of penalties in this proceeding. PURA agreed with CL&P on the latter point, and did not impose penalties in this docket.

However, PURA concluded that CL&P's performance was deficient and inadequate in (1) outage and service restoration, (2) personnel preparation, (3) support of its municipal liaison program, (4) development and communication of restoration times to customers, and (5) overall communication to customers, other service providers, and municipalities. PURA further concluded that CL&P's deficient response to the October 29, 2011, storm was caused by its failure to obtain adequate assistance in advance of the storm.

Because of CL&P's failures, PURA establishes a presumption that CL&P's allowed return on equity (the amount the company is allowed to make on its infrastructure investments) will be reduced in its next ratemaking proceeding as a penalty for poor management performance and to provide incentives for improvement. CL&P will be allowed to rebut this presumption during this proceeding. In addition, under the merger agreement between Northeast Utilities (CL&P's parent company) and NSTAR (a Massachusetts utility), PURA can determine to what extent CL&P will be allowed to recover the costs it incurred due to the storms. OLR report [2012-R-0035](#) summarizes this agreement.

In the docket, PURA states that it will similarly review UI's recovery of its 2011 storm-related costs in rates.

PURA orders the utilities to take a wide variety of steps to better prepare for and respond to major storms. Among other things, it orders:

1. CL&P and UI to track recommendations resulting from the docket and other reviews of the storms and either implement each recommendation or provide PURA with their reasons for not doing so;
2. CL&P to formulate plans to (a) assure that real-time damage assessment and outage restoration data are available from field crews, and take action to ensure that field crews use these and (b) establish a heightened state of readiness in anticipation of a major storm;
3. CL&P to increase the frequency of its tree-trimming;
4. the telephone companies to conduct annual live emergency drills for their respective Connecticut operations; and
5. the cable companies to develop a webpage for their Connecticut customers that contains storm and other emergency information.

BACKGROUND AND CONDUCT OF THE PROCEEDING

Two severe storms struck Connecticut in 2011, Tropical Storm Irene on August 28, 2011, and the Nor'easter on October 29, 2011. Tropical Storm Irene caused 815,000 total peak customer outages for CL&P and UI while the October storm led to 832,000 such outages. Following the October storm, many customers were without power for 12 days or more. Many customers also experienced a loss of cable television and telecommunications services.

[CGS § 16-11](#) requires PURA to "keep fully informed as to the condition of the plant, equipment and manner of operation of all public service [utility] companies in respect to their adequacy and suitability to accomplish the duties imposed upon such companies by law" and allows PURA to "order such reasonable improvements, repairs or alterations in such plant or equipment, or such changes in the manner of operation, as may be reasonably necessary in the public interest." Pursuant to this

law, PURA established docket 11-09-09 on September 14, 2011, to investigate the preparedness, service response, and communications of CL&P and UI following the Tropical Storm Irene outage. It expanded the investigation's scope to include the October Nor'easter on November 4, 2011.

PURA held 17 hearings during the proceeding and developed a very extensive record. Participants included energy, telecommunications, and water utilities; utility unions, several towns; OCC and the attorney general; and others. PURA also retained the Liberty Consulting Group to conduct its own comprehensive review and largely accepted its findings and recommendations.

DOCKET 11-09-09

Allegations of Imprudence

In the docket, the attorney general asserted that CL&P was imprudent with regard to a number of storm related activities. In particular, he stated that CL&P:

1. inadequately prepared for major storms and for at least five years prior to the storms failed to exercise or drill its emergency response plans and evaluate the results of such exercises or drills;
2. failed to (a) request the assistance of outside crews in a timely manner and (b) reasonably manage the crews that arrived;
3. engaged in an unreasonable damage assessment process, including failing to transmit assessment information from the field to operations headquarters efficiently;
4. failed to train and support municipal liaisons and defer to local restoration priorities;
5. failed to reasonably develop estimated restoration times; and
6. failed to reasonably manage communications with the public and public officials concerning restoration times.

The attorney general argued that PURA should find CL&P imprudent in these areas and disallow the company's resulting storm-related costs at CL&P's next rate case. He suggested alternatively that PURA disallow 30% to 50% of all of CL&P's 2011 storm restoration and recovery costs or reduce its return on equity in a future ratemaking proceeding as a penalty and warning to improve its management practices.

OCC similarly asserted that CL&P's management practices, particularly regarding communications during the service restoration period, rose to the level of imprudence. It recommended that PURA impose penalties or disallow cost recovery for the imprudent management conduct in future proceedings, including the storm recovery docket resulting from the settlement agreement on the merger of Northeast Utilities and NSTAR and any upcoming CL&P rate proceedings.

In response, CL&P contended that the overall record did not support a finding of imprudence and that, as a matter of law, the notice of the proceeding did not contemplate either a rate disallowance or assessment of penalties.

PURA agreed with CL&P on the notice issue, finding that the notice and scope of the docket did not involve issues of imprudence or rate recovery disallowances. Because the docket's notice did not include such issues, PURA did not decide on prudent and efficient management or associated cost disallowances in this case. As noted in the decision, the attorney general, OCC, and other participants will be able to challenge any request for storm cost recovery at the time of CL&P's next rate case. In addition, the settlement agreement on the merger of Northeast Utilities and NSTAR provides that CL&P will file for recovery of costs associated with both storms with PURA and that this request will be subject to PURA review and approval.

Findings Regarding CL&P

PURA's decision notes that the record was exceedingly well developed on CL&P's planning, reaction, restoration, communications, execution, and recovery issues. Based on the record, PURA made a number of findings and recommendations which mostly concern how CL&P operates. The decision describes each of the storms and the damage they caused to CL&P infrastructure; the Liberty Consulting Group's findings; and CL&P's:

1. communications with its customers and municipalities;
2. estimates on how long it would take to restore service;
3. emergency planning and organization;

4. maintenance, inspection and system design;
5. storm monitoring, preparations, and external assistance;
6. damage assessments;
7. post-storm activities; and
8. line worker staffing.

Liberty Consulting Group found that CL&P performed well in several areas. For example, it found that (1) CL&P's systems and methods enabled customers to communicate easily with the company during the storms and (2) CL&P proactively communicated with the media, public officials, customers, and the public before, during, and after the storms.

However, Liberty found that CL&P's storm performance was below average. It found that:

1. CL&P's tree trimming program contributed significantly to the extent of 2011 storm damage and the duration of service interruptions;
2. CL&P could not provide restoration estimates or restoration status to customers on a timely basis;
3. its implementation of the Incident Command System did not set up the strong, top-down management response that is necessary in reacting to major outages;
4. while CL&P made a determined effort to acquire outside resources, the results were disappointing; and
5. CL&P management did not have proper control over the "Cut/Clear, Make Safe" work done with the towns.

In the decision, PURA largely accepts Liberty's findings and recommendations. It concludes that CL&P's performance regarding communication to customers, other service providers, and municipalities was less than adequate and warranted regulatory sanction. These deficiencies included CL&P's lack of personnel preparation, failure to support municipal liaisons, and failure to reasonably develop and communicate restoration times to customers.

Findings Regarding UI and Other Utilities

The decision similarly discusses the storm-related issues regarding UI, and the telecommunications, cable TV, and water companies.

UI. Liberty's review of UI's performance was largely positive. It found that UI (1) was well organized in its response to the two storms; (2) proactively communicated with the media, public officials, customers, and the public before, during, and after the storms; and (3) managed the alert and mobilization processes well in both storms.

However, Liberty found several areas where UI needed improvement. Among other things, it found that UI (1) could not handle the large volume of customers trying to communicate with the company during the storm; (2) could not provide restoration estimates or restoration status to customers in a timely basis; and (3) did not adequately fund the removal of "hazard trees," (i.e., trees located outside of the utility easement that posed a threat to utility lines because of their condition and proximity to the lines).

Other Utilities. The decision notes that AT&T and Verizon had minimal service problems with their wireline services and both companies operated their respective networks appropriately under state of emergency situations. It determines that video service providers had no notable restoration issues and that their performance was reasonable, in the public interest, and in the interests of the providers' field employees. In addition, the gas companies and regulated water companies performed very well.

PURA found that wireless telecommunication service outages were largely affected by the loss of commercial power to cell tower sites and backhaul facilities. It notes that throughout the proceeding, the wireless carriers argued that PURA had no jurisdiction over them related to storm outages and service restoration because they were subject to the Federal Communication Commission's (FCC) disaster reporting responsibilities. In addition, PURA access to wireless carrier information was limited by the FCC's and federal Department of Homeland Security's confidentiality rules. However, the wireless carriers submitted, and PURA accepted, a proposal for the companies to share information regarding situational awareness and operational status during future emergencies.

Orders

PURA orders the utilities to take a wide variety of steps to better prepare for and respond to major storms. Among other things, it orders CL&P to:

1. track recommendations resulting from the reviews of the storms, including the docket and the Witt Associates, Davies Consulting, and the Liberty Consulting Group reports, and either implement each recommendation or provide PURA with its reasons for not implementing them;
2. provide an interim report on the status of its implementation of these recommendations to PURA by September 30, 2012, and a final report by December 28, 2012, (these two orders also apply to UI);
3. formulate a plan to assure that real-time damage assessment and outage restoration data are available from field crews, including crews from mutual assistance and line crews, and take action to ensure that field crews use these technologies;
4. formulate a plan to establish a heightened state of readiness in anticipation of a major storm and report annually by July 1 on its plan to establish the lineworker resources that would be available to it in anticipation of a major storm, including its own lineworkers and those from sister companies and contractors;
5. by August 8, 2012, implement a maintenance tree trimming program based on a four-year trim cycle (the current cycle trims a tree every five years);
6. by September 30, 2012, report on the effectiveness of enhanced tree trimming on reliability; and
7. participate in discussions with mutual assistance groups and the Edison Electric Institute on how to improve the mutual assistance process (this order also applies to UI).

In addition, PURA orders UI to report, by October 31, 2012, on the feasibility of establishing a method to provide a customer's name and telephone numbers to emergency personnel if the customer believes he or she will require assistance during emergencies.

Lastly, PURA orders:

1. AT&T to investigate and develop a method of estimating outage information other than relying on calls from customers;
2. AT&T to develop a method to make outage and restoration information available to its customers;
3. AT&T and Verizon (which provides telephone service to part of Greenwich) to conduct annual live emergency drills for their respective Connecticut operations and report the outcome of the exercises to PURA;
4. the cable companies to develop a webpage for their Connecticut customers that contains storm and other emergency information;
5. the gas companies to formulate a plan to obtain and dispense gasoline and diesel fuel for vehicles and equipment when events occur like the 2011 storms that limit their ability to maintain vehicles and equipment fueled.

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